IN THE HIGH COURT OF PUNJAB & HARYAN AT CHANDIGARH

Civil Revision No.5145 of 2004
Date of decision: February 13,2007

Subha Chand V. Smt. Chhopti and others

CORAM: HON'BLE MR.JUSTICE VINEY MITTAL

Present: Shri Mani Ram,Advocate, for the petitioner.
Shri R.A.Sheoran, Advocate, for the respondents.

Viney Mittal,J.(Oral)

Plaintiff No.1 is the petitioner before this Court. He has challenged order dated October 5,2004 passed by the learned trial Judge whereby the application for leading additional evidence filed by the plaintiffs has been rejected.

At the out-set, Shri Mani Ram, learned counsel appearing for the plaintiff-petitioner states that all the additional evidence which the plaintiff-petitioner wishes to produce before the trial court is in the nature of documentary evidence and the aforesaid documents have already been attached with the application for leading additional evidence. Learned counsel specifically states that beside the aforesaid documentary evidence, the plaintiff-petitioner shall not lead any further evidence and is even ready to pay costs of Rs.10,000/- to the defendants if the application filed by the plaintiffs is allowed.

Keeping in view the statement made by the learned counsel for the petitioner and also keeping in view the fact that only the documentary evidence is sought to be produced by the plaintiffs by way of additional evidence and also keeping in view the fact that the plaintiffs are ready to compensate the defendants with substantial costs, the present revision petition is allowed. Order dated October 5,2004 passed by the learned trial Judge is set aside. The additional evidence appended with the application filed by the plaintiffs shall be taken to have been produced by them on record subject to payment of Rs.10,000/- as costs to the defendants.

The trial Court shall fix one date and on the said date

the plaintiffs shall pay costs of Rs.10,000/- to the defendants. On payment of the aforesaid costs, the documentary evidence appended by the plaintiffs along with the application shall be taken to have been formally produced by them on record and shall be so exhibited in accordance with. Thereafter the defendants shall be granted two effective opportunities to lead their evidence in rebuttal of the aforesaid additional evidence led by the plaintiffs. The defendants shall,however, lead the aforesaid evidence at their own responsibility and without the assistance of the Court. It is made clear that if the plaintiffs fail to pay the costs as detailed above, then in such a situation the present revision petition shall be deemed to have been dismissed and in those circumstances, order dated October 5,2004 passed by the trial Judge shall stand revived.

The parties are directed to appear before the trial court on March 26,2007.

A copy of the order be given dasti on usual charges.

February 13,2007 (Viney Mittal)
sks Judge